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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,209	05/07/2001	Derek Ness	UDL0155PUSA	1349

22045 7590 07/28/2003

BROOKS & KUSHMAN
1000 TOWN CENTER 22ND FL
SOUTHFIELD, MI 48075

EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/28/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,209

Applicant(s)

NESS ET AL.

Examiner

Jennifer A Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1 - 4, 6 - 18 and 20 - 23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1 - 4, 6 - 18 and 20 - 23 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s) _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed May 6, 2003, have been entered as Paper No. 9 and have been carefully considered. The Specification has been amended. Claims 1 – 4, 7, 8, 14 and 17 have been amended, claims 5 and 19 have been cancelled, claims 22 and 23 have been added and claims 1 – 4, 6 – 18 and 20 – 23 are pending. Due to Applicant's amendment of the Specification, the Examiner withdraws the 35 U.S.C. 112, 2nd paragraph rejection of claims 1 – 14 and 16 – 21 as set forth in paragraphs 3 - 4 of Paper No. 7. Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1 – 4, 6 - 8, 10 - 12, 14, 16 – 18, 20 - 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Narita et al. (US 5,431,995). The rejection is maintained. The details of the rejection can be found in paragraph 6 of Paper No. 7.

4. As to the amendment of claim 1, Narita teaches that the compound is laminated and due to the pressure, the cloth layers will be partly compacted into the resin layer (column 3, lines 25 – 40), which would result in the Applicant's "partially unimpregnated" fibrous layer. It should be noted that the limitation "allows trapped air to pass out of the material during processing" is

considered a process limitation, therefore, it is not given any patentable weight because it does not have any impact on the final product. Narita teaches that the fibrous layers can be woven or non-woven fabric (column 2, lines 15 – 20) and can be partially compacted into the resin layer (column 3, lines 25 – 40), which meets the physical limitation set forth by Narita. It should be noted that an element is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform. The phrase “adapted for use in multiple layers” does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

5. As to claim 23, Narita teaches that the laminate is molded under pressure (column 3, lines 35 – 40), therefore, it should be relatively free of voids.

6. Claims 1 – 2 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Letterman (US 4,622,091).

Letterman is directed to a resin film infusion process (Title). Letterman teaches a monolithic structure formed of woven, knitted, or mats integrally supported and bonded by a cured resin (column 2, lines 29 – 35). Letterman teaches that a plurality of dry fiber plies are layered to create a dry preform (column 2, lines 34 – 36). Letterman teaches that the preform may be in two or more pieces separated by a layer of resin (column 2, lines 49 – 52).

Claim Rejections - 35 USC § 103

7. Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narita et al. (US 5,431,995) in view of De Jager (US 5,439,627). The rejection is maintained. The details of the rejection can be found in paragraph 8 of Paper No. 7.

Response to Arguments

8. Applicant's arguments filed May 6, 2003 have been fully considered but they are not persuasive.

9. In response to Applicant's argument that Narita does not disclose all the limitation of the Applicant, the Examiner respectfully argues the contrary. The use of the limitation "adapted for use in multiple layers" does not provide a positive limitation because it only requires the laminate to have the ability to do so. The phrase is not given any patentable weight. Additionally, the Applicant states that Narita does not teach that the fibrous layer "allows entrapped air to pass out of the material during processing". Narita sets forth the physical limitations of the fibrous layer by requiring that the layer is a woven or non-woven fabric (column 2, lines 15 – 20) and can be partially compacted into the resin layer (column 3, lines 25 – 40). The limitation of allowing entrapped air to pass out of the material during processing is a process limitation and is not given any patentable weight in a claim directed to an article.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Jennifer Boyd
July 17, 2003

